

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

NORTHERN TECHNOLOGIES
INTERNATIONAL CORPORATION

Plaintiff

-vs-

SKS INDUSTRIES, INC., et al.

Defendants

:
:
: CASE NO. 1:02CV-828
:
:

: MEMORANDUM OF OPINION AND
: ORDER GRANTING THE PARTIES'
: JOINT MOTION TO ENTER SECOND
: CONSENT JUDGMENT AND ORDER

UNITED STATES DISTRICT JUDGE LESLEY WELLS

Before the Court is the parties' "Second Consent Judgment and Order," which this Court shall construe as a joint motion to enter a second consent judgment and order. ("Second Consent Order") (Docket #73). On 21 August 2003, the parties entered into a consent judgment and order resolving the dispute between them. ("First Consent Order") (Docket No. #33). On 28 March 2007, Plaintiff, Northern Technologies International Corporation (NTI) filed a motion for contempt alleging violation of the First Consent Order. (Docket #35). On 6 March 2009, this Court granted NTI's motion for contempt and found Defendant, SKS Industries, Inc., and John E. Holden, in contempt. (Docket #66). Because the Second Consent Judgment¹

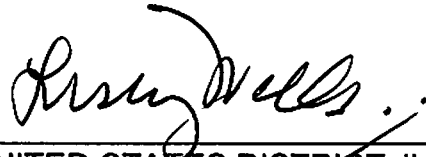
¹The parties have not addressed the omission of ROYCO from paragraph 3 of the Second Consent Order. ROYCO was not a party to the contempt action, but was a party bound by the First Consent Order. Accordingly, ROYCO remains bound by the First Consent Order.

broadens the obligations of the First Consent Judgment to address the issues that led to the contempt proceedings, the Court will grant the motion.

It is hereby ordered that:

1. The Court has jurisdiction over the parties and the subject matter of this action.
2. The parties agree that NTI is the owner of the color yellow as a trademark for anticorrosive plastic packaging products including but not limited to plastic film (but excluding paper) used for packaging metallic products, for industrial and consumer use (VCI Plastic Packaging Products) in the United States and abroad, and of U.S. Trademark Registration No. 1,916,424 of such mark.
3. Both SKS and HOLDEN are permanently enjoined from making, using, selling, offering for sale or promoting or otherwise dealing in any yellow VCI Plastic Packaging Products or adding any colorant to any chemicals in order to make yellow VCI Plastic Packaging Products, whether for use in the United States or abroad.
4. The Court hereby vacates its Memorandum of Opinion and Order Granting Plaintiff's Motion for Contempt issued March 6, 2009 (Docket # 66) and NTI's Motion for Contempt (Docket # 35) is hereby dismissed as moot in view of this Second Consent Judgment and Order.

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE

Dated: 1 June 2009